

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**JUANA M. LONGORIA**

## Claimant

VS.

# WESLEY REHABILITATION HOSPITAL

Respondent

AND

# HORIZON HEALTHCARE CORPORATION

Insurance Carrier

Docket No. 220,244

## ORDER

Respondent and its insurance carrier requested review of the preliminary hearing Order dated March 28, 1997, entered by Administrative Law Judge Nelsonna Potts Barnes.

## ISSUES

The Administrative Law Judge awarded claimant temporary total medical benefits. Respondent and its insurance carrier requested the Appeals Board to review the issue of whether the claimant sustained personal injury by accident arising out of and in the course of employment with respondent. That is the only issue before the Appeals Board on this review.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, for preliminary hearing purposes the Appeals Board finds as follows:

The facts are not disputed. Claimant injured her left knee on January 7, 1997, when she squatted to pick up change which had fallen from a pop machine. The incident occurred in respondent's cafeteria while claimant was on her 30-minute lunch break.

During lunch break, claimant was subject to early recall to work in the event of an emergency.

Respondent and its insurance carrier contend the accident occurred as a result of normal activities of day-to-day living and, therefore, did not arise out of and in the course of employment. See K.S.A. 1996 Supp. 44-508(e).

The Appeals Board finds claimant's accident arose out of and in the course of her employment with the respondent. The accident occurred during lunch break, which was incidental to claimant's employment and while on respondent's premises.

Respondent's argument that claimant's injury occurred as a result of normal activities of day-to-day living is misplaced. The Appeals Board has previously interpreted K.S.A. 1996 Supp. 44-508(e) to be a codification of Boeckmann v. Goodyear Tire & Rubber Co., 210 Kan. 733, 504 P.2d 625, (1972), which holds that injuries caused by "everyday bodily motions" which "gradually and imperceptibly eroded the physical fibers" are not compensable where it is clear any movement on or off the job would cause the injury regardless of the worker's activities. Claimant's accident was a sudden traumatic event and, therefore, her injury is distinguishable from that contemplated and precluded by K.S.A. 1996 Supp. 44-508(e).

The Appeals Board finds the Administrative Law Judge properly analyzed the facts and applied the appropriate law. Therefore, the Administrative Law Judge's Order should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated March 28, 1997, entered by Administrative Law Judge Nelsonna Potts Barnes should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1997.

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BOARD MEMBER

c: Kelly W. Johnston, Wichita, KS  
P. Kelly Donley, Wichita, KS  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director